

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

M.B. by his next friend Ericka)
Eggemeyer, et al.,)
)
Plaintiffs,)
)
v.) Case No. 2:17-cv-04102-NKL
)
)
Jennifer Tidball, et al.,)
)
Defendants.)

**ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT,
SETTING HEARING, AND DIRECTING CLASS NOTICE**

This matter comes before the Court on the parties' Joint Motion for Preliminary Approval of Class Action Settlement and Suggestions in Support (the "Joint Motion"). The parties request the Court's preliminary approval of a settlement agreement to this class action (the "Settlement Agreement") reached between Defendants and the Class certified by the Court of children in the custody of the Children's Division ("CD") of the Missouri Department of Social Services ("DSS"). In their Joint Motion, the parties move the Court to (a) preliminarily approve the Settlement Agreement; (b) authorize and approve the form and manner of a Notice of Proposed Class Action Settlement to be sent to Class members; (c) set the deadline for written submissions by persons who are Class members, or legal representatives of Class members, who wish to be heard in favor of or in objection to the Settlement Agreement; and (d) set the date for a fairness hearing in accordance with Rule 23(e).

The Court has preliminarily reviewed and evaluated the proposed Settlement Agreement and finds that it falls within the range of possible approval. Accordingly, the Joint Motion is **GRANTED** and the Court orders as follows:

1. Preliminary Approval of the Parties' Settlement Agreement

Taking into account the applicable standard, the Court finds that the Settlement Agreement is worthy of the Class's consideration. It falls within the range of possible approval, as required by Rule 23. The Court therefore grants preliminary approval of the Settlement Agreement; approves the Notice of Proposed Class Action Settlement, a copy of which is attached to this order, and orders that the Notice be directed to Class members and their legal representatives; and orders a hearing to be scheduled, as provided below, to ascertain whether the proposed Settlement Agreement meets the standards required for final approval under Rule 23(e).

2. Hearing

A hearing shall be held in Courtroom 8B at the Charles Evans Whittaker U.S. Courthouse, 400 East 9th Street, Kansas City, Missouri 64106 at 9:00 A.M. on November 20, 2019, to consider whether the proposed Settlement Agreement is fair, reasonable, and adequate and should receive the Court's final approval pursuant to Rule 23(e).

- a. Objections, support, or comments by Class members, or their legal representatives, regarding the proposed Settlement Agreement will be considered if submitted by U.S. Mail or email on or before October 23, 2019 to either:
 - i. Children's Rights, Attn: Samantha Bartosz, 88 Pine Street, Suite 800, New York, NY 10005, sbartosz@childrensrights.org; or
 - ii. St. Louis University Legal Clinic, Attn: Professor John Ammann, 100 North Tucker, Suite 704, St. Louis, MO 63101, john.ammann@slu.edu

- b. Class members, or their legal representatives, who wish to be heard orally in support of or in opposition to the proposed Settlement Agreement at the hearing must submit with their objections, support, or comments, as described in Paragraph (a) above, a written notification of their desire to appear personally and briefly indicate (if in opposition to the settlement) the nature of the opposition on or before October 23, 2019.
- c. Counsel for the Class will provide counsel for Defendants any objections, support, or comments received from Class members, their legal representatives, or any other person, entity, or interested party regarding the proposed Settlement Agreement and any information received in relation to Paragraph (b) within five days of receipt.
- d. Counsel for the Class and for Defendants shall be prepared at the hearing to respond to objections filed by Class members, or their legal representatives, and to provide other information, as appropriate, bearing on why the Settlement Agreement should be approved.

3. Notice to Class Members

The Notice of Proposed Class Action Settlement in *M.B., et al. v. Tidball, et al.*, attached hereto as Exhibit A (the “Notice”), is approved. Nothing in this order requires Defendants to respond or provide legal advice to any member of the Class, any guardian ad litem or advocate, or any other person or entity in connection with the Settlement Agreement. Defendants may refer any outside inquiries or questions about the Settlement Agreement to Class counsel or a Class member’s guardian ad litem.

On or before August 21, 2019, Defendants shall, at their sole expense, take the following steps to notify Class members and their legal representatives of the proposed Settlement Agreement, as follows:

- a. Defendants shall prominently post a copy of this order and the Notice on the DSS/CD website and maintain that posting on the website until October 23, 2019.
- b. Defendants shall transmit a copy of the Notice, and may transmit one or more accompanying letters signed by an authorized representative of DSS or CD (where appropriate, Defendants may request in any letter that recipients share information with Class members in their care, leaving it to recipients to determine what communications are warranted in light of a child's age, a child's development, or other circumstances) to the persons and locations listed below.
 - i. Defendants will email to the case management staff of CD a copy of the Notice, along with a link to the Settlement Agreement.
 - ii. Defendants will post the Notice in the CD main office, CD regional offices, and each county office in a conspicuous place.
 - iii. Defendants will send via email (or U.S. Mail if only a mailing address is available) the Notice and any accompanying letter to the Missouri Office of State Court Administrator.
 - iv. Defendants will send via email (or U.S. Mail, if only a mailing address is available) the Notice and any accompanying letter to each contractor providing Foster Care Case Management services to Class members.
 - v. Defendants will send via email (or U.S. Mail, if only a mailing address is available) the Notice and any accompanying letter to the last known email (or mailing) address for the parent(s) of a child for whom their parental rights have not been terminated and to the last known email (or mailing) address of any relative placement of any

Class member. For purposes of this order, the last known e-mail address or mailing address refers to the address in the records of CD.

- vi. Defendants will send via email (or U.S. Mail, if only a mailing address is available) the Notice and any accompanying letter to the current email (or mailing) address of record of all placement providers (including, at a minimum, foster, pre-adoptive, and relative caregivers) for children in CD custody.
- vii. Defendants will send via email (or U.S. Mail, if only a mailing address is available) the Notice and any accompanying letter to the current email (or mailing) address of record of all children in an independent living arrangement or currently enrolled in the Transitional Living Program.

c. As to the following, Defendants will send via email (or U.S. Mail, if only a mailing address is available) the Notice, ask that the Notice be disseminated to staff and posted in locations most likely to be seen by Class Members and/or their legal representatives, and ask that the information remain posted until October 23, 2019:

- i. The Presiding Judge of each Missouri Circuit Court, or if the Circuit has a Family or Juvenile Court, the Presiding Judge of the Juvenile or Family Court;
- ii. The office of the Chief Juvenile Officer for each Missouri judicial circuit;
- iii. To each congregate care placement, group home, residential counseling center, residential treatment center, and child placing agency utilized by Defendants;
- iv. The office of Missouri guardians ad litem, if a formal office exists in a particular judicial circuit;
- v. The office of Missouri Court Appointed Special Advocates, if a formal office exists in a particular judicial circuit; and

- vi. The Missouri Bar Association.
- d. Counsel for the Class will submit to the Court all written submissions received from Class members, their legal representatives, or other interested parties, and any written responses to such submissions, on or before November 6, 2019.
- e. Defendants will file with the Court, on or before August 28, 2019, an affidavit certifying compliance with the notice requirements of this order.

IT IS SO ORDERED:

s/ Nanette K. Laughrey
NANETTE K. LAUGHREY
United States District Judge

Dated: July 15, 2018
Jefferson City, Missouri